

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JUL 31 2023

rk

MITCHELL R. ELFERS
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CR 19-3113 JB

ROBERT PADILLA, et al.,

Defendants.

ORDER TO CONTINUE TRIAL

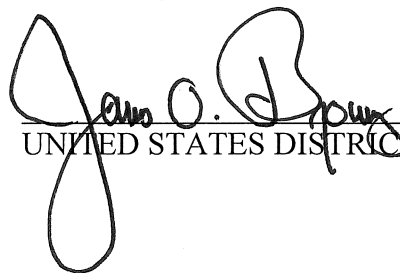
THIS MATTER is before the Court on the Joint Motion to Continue the July 27, 2023 trial setting. There being good cause shown by the Parties, the Courts finds that the motion is well-taken and should be granted.

IT IS HEREBY ORDERED that the jury trial in this matter currently scheduled for July 27, 2023 is continued and will be rescheduled for November 27, 2023 at 9:00 AM (trailing docket).

Additionally, the Court finds that a continuance is necessary to continue plea negotiations between the government and Defendant Robert Padilla. Said plea negotiations have been complicated by the need to allow Defendant Padilla to consult with and review discovery with Mr. Padilla's separate counsel in Case No. 22-CR-0634 to determine how any potential plea in the above-captioned case could adversely impact Mr. Padilla's case in Case No. 22-CR-0634. If a resolution is not reached, then additional time will be necessary to review and summarize voluminous discovery, prepare pretrial motions, motions in limine, conduct case investigation, and prepare for trial. In addition, the Court finds that a continuance is necessary to allow Defendants Genevive Atencio and Janaya Atencio the necessary time to complete their respective Pretrial

Diversion Program requirements.

The Court finds that the ends of justice will be served by granting this extension of time in which to file motions and a continuance of the trial. *See United States v. Hernandez-Mejia*, 406 Fed. App'x. 330, 338 (10th Cir, 2011) ("The Speedy Trial Act was intended not only to protect the interests of defendants but was also 'designed with the public interest firmly in mind.'") (quoting *United States v. Toombs*, 574 F.3d 1262, 1273 (10th Cir. 2009). Additional time will allow Defendant Padilla and his counsel to further review discovery, conduct an investigation into the charges in this case, including the need to analyze the overlapping of facts, evidence, and claims in the two federal criminal cases pending against Defendant Padilla, and thereafter prepare and file appropriate pretrial motions. Additionally, a continuance will provide the remaining Defendants time to discuss a possible negotiated resolution of this matter. Such a negotiated resolution would conserve judicial and prosecutorial resources and could also materially benefit the defendants by providing them access to a more favorable resolution of this matter. This motion is not predicated upon the congestion of the Court's docket. *See United States v. Hernandez-Mejia*, 406 Fed. App'x. 330, 338 (10th Cir. 2011) ("The speedy Trial Act was intended not only to protect the interests of defendants, but was also 'designed with the public interest in mind.'") (quoting *United States v. Toombs*, 574 F.3d 1262, 1273 (10th Cir. 2009).


UNITED STATES DISTRICT JUDGE

After weighing the best interest of the public and of the Defendants with the ends of justice, the Court finds that granting a continuance will strike a proper balance between the ends of justice and the best interests of the public and of the Defendants for the reasons stated in the motion requesting a continuance, filed July 23, 2023 (Doc. 798). Specifically, the Defendants' need to complete the terms of compliance for pretrial diversion programs or resolve their respective cases, where applicable, and otherwise to permit counsel to review discovery in the instant matter and a related case, permit counsel in the related case to continue engaging in plea negotiations in an attempt to resolve the matter, and if a resolution is not reached, time to litigate pending pretrial motions, and enable counsel to prepare for trial, outweighs the Defendants' and the public's interest in a speedy trial. See 18 U.S.C. Section 3161(h)(7). The pretrial motion deadline is November 6, 2023. The Court will set the trial for November 27, 2023 at 9:00AM (trailing docket). This 120-day continuance is sufficient without being greater than necessary, for the Defendants to complete the tasks set forth in the motion to continue.